

## **Why is the American College of Surgeons supporting the "America's Affordable Health Choices Act (AAHCA) of 2009" (H.R. 3200)?**

The decision to initially support H.R. 3200 was made after extensive conversations with the ACS Health Policy and Advocacy Group (HPAG) and the surgical societies, along with careful consideration by the Executive Committee of the Board of Governors about how this legislation would impact surgeons and surgical patients. Ultimately, the decision to support H.R. 3200 was made unanimously by the Executive Committee of the ACS Board of Regents. The ACS leadership believes our Fellows and our surgical patients are best served if ACS takes an informed and proactive position as the health care reform legislation works its way through Congress.

While H.R. 3200 is a large bill (over 1000 pages) and contains a wide array of provisions, it does embody many of the College's top legislative priorities including:

- Addressing the underlying problems of the sustainable growth rate (SGR) used to calculate Medicare physician payments by halting the pending 21.5 percent cut in Medicare reimbursement that will occur on January 1, 2010, and replacing the cut in 2010 with an increase based on the Medicare Economic Index (MEI);
- Replacing the SGR in 2011, with two separate targets that includes all surgical E&M in the target with higher growth;
- Resetting the budget baseline for the Medicare physician payment system;
- Ensuring that increased payments to primary care are not financed through reductions in payments for surgical care;
- Positive improvements to the PQRI program;
- Ensuring the public plan option is not mandatory;
- Exclusion of ultrasound from increases in practice expense units for imaging services;
- Strong comparative effectiveness language; and
- Ensuring that the innovative payment models are tested under pilot programs before being implemented throughout the country.

In any bill this large there are provisions that the College would like to see improved upon or provisions that were left out that the College would like to see addressed, such as medical liability reform and surgical workforce. Our support of this bill is just the first step in a multi-layered process, and the College's support of HR 3200 in no way prevents us from continuing to work to improve the legislation.

## **With the introduction of such a large piece of legislation, how was the College able to react so quickly in offering their initial support of H.R. 3200?**

Prior to the introduction of H.R. 3200, and over the last few months, the College and the surgical community has been reading, analyzing and responding to preliminary drafts of comprehensive health care reform legislation proposed by both the House and Senate. H.R. 3200 is very similar to the earlier draft released by the three key House Committees, enabling the College's Washington Office staff to quickly analyze the

language and provide detailed summaries to leadership for use in determining the content and repercussions of the legislation.

### **Is the College willing to reconsider its support of H.R. 3200?**

The College offered its support in good faith and has expressed its support as long as the bill remains in line with the College's priorities. The College reserves the right to reconsider our position at any time throughout the process and has clearly communicated that message to the Democratic leadership.

### **Why is the College supporting H.R. 3200 if it does not include medical liability reform?**

Medical liability reform continues to be a policy priority of the College, and the College and the surgical community have called on lawmakers in the House and Senate to include medical liability reform in health reform legislation. While the bill does not include liability reform in its introduced form, the College and other physician organizations are working to include provisions for some liability protection—possibly in the area of emergency and trauma care.

### **Does H.R. 3200 include a provision that would expand the current advisory role of the Medicare Payment Advisory Commission (MedPAC)?**

H.R. 3200 does not include a provision that would expand the authority of the MedPAC or create a new body of unelected, unaccountable officials called an Independent Medicare Advisory Council (IMAC) in the executive branch to set Medicare payment and coverage policy and rates. The College and the surgical community do not support establishing an executive-level commission with almost unilateral authority to set rates and sent a July 21 letter to House Speaker Nancy Pelosi stating that our organizations would vigorously oppose any bill that would include such provisions to either recreate MedPAC or create the IMAC.

### **Does H.R. 3200 cut payments for surgical care to pay for increased payments for primary care?**

No. While H.R. 3200 does include provisions to increase Medicare payments for primary care, it does not finance these payment increases through cuts in payments for surgical care. In its June 2008 and March 2009 reports, MedPAC recommended increasing payments for primary care through corresponding payment reductions in other physician services, including surgical care. The College has actively worked to oppose these proposals to cut payments for surgical care. Through the College's advocacy efforts, Rep. Shelley Berkley (D-NV) and Rep. Mark Kirk (R-IL) and 88 other Representatives sent a letter to House Speaker Nancy Pelosi (D-CA) and Republican Leader John Boehner (R-OH), expressing opposition to proposals that would fund increased payments for primary care through payment cuts for other services. The College was encouraged that H.R. 3200 recognized that cutting payments for surgical

care was not the appropriate mechanism to finance increased payments for primary care.

**Since H.R. 3200 includes a government-run insurance plan, does this mean that College supports a single-payer system?**

The College does not support a single-payer system. The College has not taken a position of support or opposition for a government-run insurance plan because details of exactly what a public plan would look like remain very fluid. H.R. 3200 includes a public insurance option that would be administered by the government but would compete with private plans in the Health Insurance Exchange. In addition, the public plan would not require physicians to participate.

**What does H.R. 3200 do to improve emergency and trauma surgical care?**

While not included in the bill as introduced, the House Energy and Commerce Committee has approved an amendment, supported and advocated by the College and other surgical groups, to provide for regional coordination of emergency care services through the Emergency Care Coordination Center (ECCC), to establish regionalization pilot projects for emergency care, and to provide financial support to stabilize economically challenged trauma centers. The Senate Health, Education, Labor and Pensions (HELP) Committee has also approved similar language in its consideration of health care legislation.

**Does H.R. 3200 make private insurance illegal?**

No. While H.R. 3200 does create new laws to regulate the insurance industry, they are laws to ensure fair treatment of patients and providers, such as timely payment rules and non-discrimination for pre-existing conditions. Individual insurance policies currently held will be "grandfathered" and will not be subject to change for five years. All new private plans will be available for purchase on the Health Insurance Exchange, which will require benefits standards as recommended by the Benefits Advisory Committee. One option within the Exchange will be the public plan, which according to H.R. 3200, must participate on a level playing field with private plan choices. Like private plans, it must offer the same benefits, abide by the same insurance market reforms, follow provider network requirements and other consumer protections.

**Won't provisions in H.R. 3200 lead to rationing of care?**

No. H.R. 3200 creates a Benefits Advisory Committee, with its members appointed by the President and chaired by the Surgeons General, to make recommendations to the Secretary of HHS regarding the details of covered health benefits. H.R. 3200 mandates that the Committee's membership include practicing physicians. The public plan, as well as all private insurance plans offered for participation within the Insurance Exchange, will be required to meet minimum benefit standards recommended by the Benefits

Advisory Committee. The law does not give this Committee authority to ration or limit benefits and coverage of care based on cost or any other criteria.

### **What happens next?**

The College's Washington staff is actively engaged and meeting with key leaders daily about the legislation and continues to aggressively monitor changing provisions within the bill. Our initial support of H.R. 3200 enables the College to continue negotiating with the House to protect our priorities, while also working to improve the legislation. The College's leadership, including the HPAG, also remains actively involved in the on-going debate.

The fate of comprehensive health care reform is unknown. H.R. 3200 remains open for negotiations, amendments and rules prior to a vote by the House of Representatives sometime after the August recess. Again, College staff and leadership remain ever-vigilant in monitoring the content and status of this legislation to ensure that nothing is added or removed that will negatively impact surgery or access to quality surgical care.

In the Senate, negotiations for a bipartisan compromise in the Finance Committee continue and to date, no bill has been introduced. The Senate Help, Education, Labor and Pensions (HELP) Committee has completed work on their version of comprehensive health care reform legislation. Following the mark-up of the Senate Finance Committee legislation, the two Senate bills will have to be merged before a final vote is taken by the full Senate. Majority Leader Harry Reid (D-NV) recently announced that the Senate would not vote on comprehensive health care reform until after the August recess.